

Docket No.: 564462012800
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent Application of:
Morgan et al.

Application No.: 10/576,122

Confirmation No.: XXXX

Filed: Int'l. – October 20, 2004

Art Unit: Not Yet Assigned

Filed: U.S. national stage – April 18, 2006

For: Methods For Making Simvastatin and
Intermediates

Examiner: Not Yet Assigned

DECLARATION OF LINDA SABIDO UNDER 37 CFR 1.47(a)

MS PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, **LINDA SABIDO**, declare and state that:

1. I am an Intellectual Property Assistant at Diversa Corporation, international applicant and assignee of the above-referenced patent application. .
2. I have first hand knowledge regarding the uncooperativeness/unavailability of the co-inventor Zilin Huang regarding execution of the Rule 63 declaration for this application.
3. On April 2, 2007, I personally sent a Rule 63 Declaration for Zilin Huang's signature, via first class mail, to the following address which Zilin Huang had stated was his current home address:

13750 NE 12th Street, #I-201

Bellevue, WA 98005

A copy of that April 2, 2007, letter is attached hereto as Exhibit A. I did not receive a reply to this letter.

4. On April 16, 2007, I personally sent another copy of the Rule 63 Declaration for Zilin Huang's signature, via first class mail. A copy of that April 16, 2007, letter is attached hereto as Exhibit B.
5. On April 28, 2007, the second letter was returned to me, Linda Sabido, marked, "Return To Sender – Unable to Forward." A copy of the returned envelope is attached as Exhibit C. The returned envelope did not have a forwarding address.
6. On April 17, 2007, I tried to reach Zilin Huang at home by telephone, but his last known home phone number was disconnected:

(209) 910-6106

7. On April 17, 2007, I tried to reach Zilin Huang at work by telephone, at his last known work phone number, but a message stated that "the employee that I was trying to reach [Zilin Huang] was no longer employed there":

(425) 489-5020

8. On April 24, 2007, I sent Karen Kustedjo, a co-inventor with Zilin Huang, who currently works at Diversa Corporation, an e-mail RE: Zilin Huang's whereabouts. A copy of the E-mail is attached hereto as Exhibit D. Karen Kustedjo was not then and is not now aware of Zilin Huang's current work or home contact information.
9. On April 24, 2007, I sent Patricia Wallace in the Human Resources Dept. at Diversa Corporation, an e-mail inquiring about an updated address for Zilin Huang, and Ms. Wallace had the same address on file. A copy of the E-mail is attached hereto as Exhibit E. Patricia Wallace was not then and is not now aware of Zilin Huang's current work or home contact information.

10. On April 26, 2007, I personally sent letters to Zilin Huang's co-inventors: Brian Morgan, Mark Burk, Michael Levin, Zuolin Zhu, Jennifer Chaplin, Karen Kustedjo, and William Greenberg regarding any contact information for Zilin Huang. Copies of the letters are attached as Exhibit F. I did not receive any responses.
11. On April 26, 2007, a third letter with a Rule 63 Declaration was sent by Federal Express to Zilin Huang at his last known home residence, 13750 NE 12th Street, #I-201, Bellevue, WA 98005. A copy of that letter and the accompanying Shipping Request Form is attached hereto as Exhibit G.
12. On May 26, 2007, the third letter was returned to me, marked "Return To Sender - Moved." A copy of that letter, the accompanying Shipping Request Form, and the Detailed Tracking Shipment Results is attached hereto as Exhibit H.
13. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date May 22, 2007

Linda Sabido
LINDA SABIDO

Intellectual Property Assistant

Diversa Corporation



DIVERSA

April 2, 2007

Zilin Huang
13750 NE 12th Street, #I-201
Bellevue, WA 98005

Re: Declaration for U.S. Application 10/576,122
"Methods for Making Simvastatin and Intermediates"
Filed October 20, 2004
Diversa Docket No. D2050-2N

Dear Zilin,

We filed an international patent application on certain simvastatin methods, naming you as one of the inventors. A copy of the international cover page is enclosed for your reference.

This application is now under examination in the United States, and we will need your signature on a Declaration to affirm that you are an inventor. Please let me know if you would also like a copy of the specification for your reference.

Please sign and date the enclosed Declaration and return it to Diversa's IP department within the next week. If your home address on the Declaration is incorrect, please correct it and initial the correction. While we would prefer the original signed document, if necessary you may fax the signed version to 858-526-5614.

If you have any questions, please feel free to call me at 858-526-0345 or email me at lsabido@diversa.com. Thanks again for your help.

Sincerely yours,

Linda Sabido

Linda Sabido
IP Assistant
IP Department
Diversa Corporation

EXHIBIT A



DIVERSA

April 16, 2007

Zilin Huang
13750 NE 12th Street, #I-201
Bellevue, WA 98005

Re: Declaration for U.S. Application 10/576,122
"Methods for Making Simvastatin and Intermediates"
Filed October 20, 2004
Diversa Docket No. D2050-2N

Dear Zilin,

We filed an international patent application on certain simvastatin methods, naming you as one of the inventors. A copy of the international cover page is enclosed for your reference.

This application is now under examination in the United States, and we will need your signature on a Declaration to affirm that you are an inventor. Please let me know if you would also like a copy of the specification for your reference.

Please sign and date the enclosed Declaration and return it to Diversa's IP department within the next week. If your home address on the Declaration is incorrect, please correct it and initial the correction. While we would prefer the original signed document, if necessary you may fax the signed version to 858-526-5614.

If you have any questions, please feel free to call me at 858-526-0345 or email me at lsabido@diversa.com. Thanks again for your help.

Sincerely yours,

Linda Sabido
IP Assistant
IP Department
Diversa Corporation

EXHIBIT B



DIVERSA

4955 Directors Place
San Diego, California 92121
Linda Sabido - IP Dept

FIRST CLASS



UNITED STATES POSTAGE
PRIMEV BOWES
\$00.630
02 1A
0004321175
APR 16 2007
MAILED FROM ZIP CODE 92121

HR does

Zilin Huang

not have a

13750 NE 12th Street, I-201

more current

Bellevue, WA 98005

Address -

Bar S.

VPK

NIXIE

980 CC 1

01 04/28/07

RETURN TO SENDER
UNABLE TO FORWARD

BC: 92121382935

*1604-10625-16-44

92121382935
9212103829

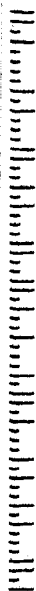


EXHIBIT C

Linda Sabido

From: Linda Sabido
Sent: Tuesday, April 24, 2007 10:54 AM
To: Karen Kustedjo
Subject: RE: Do you know how I can reach Zilin Huang?

Hi Karen,

I've tried to reach Zilin Huang on two occasions, so that he could sign the Declaration for "*Methods For Making Simvastatin and Intermediates*," but he is the only inventor that hasn't responded back. It seems that he relocated without notifying us of his new address/phone number. If you have any contact information for him, i.e., an e-mail address, phone number, or mailing address, it would greatly be appreciated.

Thanks,

Linda Sabido

Intellectual Property Assistant

Diversa Corporation

4955 Directors Place

San Diego, CA 92121

858.526.0345

lsabido@diversa.com

Hope you're having a great day!

EXHIBIT D

Linda Sabido

From: Patricia Wallace
Sent: Wednesday, April 25, 2007 3:19 PM
To: Linda Sabido
Subject: RE: RE: Request for Zilin Huang's New Contact Info.

Hi Linda,

I wish I could help you out, but the Bellevue address below is what we have on file and we don't have any updated phone numbers either. I'm sorry about that.

Patricia

From: Linda Sabido
Sent: Wednesday, April 25, 2007 2:31 PM
To: Patricia Wallace
Subject: RE: Request for Zilin Huang's New Contact Info.

Hi Patricia,

I've attempted to contacted Zilin Huang several times, in order to get some legal matters signed, but haven't been able to reach him.

The address I have for him is:
13750 NE 12th Street, #I-201
Bellevue, WA 98005

The phone numbers that I have:
Business: (425) 489-5020 States that he is no longer employed there.
Home: (206) 910-6106 Has been disconnected.

Do you have an updated address/phone number(s) where I can reach him? Any assistance on your part would be greatly appreciated!

Thanks,
Linda Sabido
Intellectual Property Assistant
Diversa Corporation
4955 Directors Place
San Diego, CA 92121
858.526.0345
lsabido@diversa.com

Hope you're having a great day!

EXHIBIT E



D I V E R S A

April 26, 2007

Brian Morgan
4849 Riding Ridge Road
San Diego, CA 92130

RE: Contact Info. For Zilin Huang
Title: *Methods For Making Simvastatin and Intermediates*
Docket: D2050-2N

Dear Brian,

Recently I sent all the inventors for the above application a Declaration to sign & return to me. I have heard back from everyone except Zilin Huang. There's been two attempts to reach him via regular postal mail, a phone call to his work number that states he is no longer employed there, & a home number which has been disconnected. Would you happen to have any recent contact info. for your co-inventor, Zilin Huang? If so, please let me know via e-mail: lsabido@diversa.com

Any assistance would very much be appreciated! Thank you for your time and cooperation. Hope you're having a good day!

Sincerely,

Linda Sabido

Linda Sabido
IP Assistant
Diversa Corporation
P.O. Box 910550
San Diego, CA 92191-0550

EXHIBIT F
(PAGE 1
OF 5)



D I V E R S A

April 26, 2007

Mark Burk
12634 Intermezzo Way
San Diego, CA 92130

RE: Contact Info. For Zilin Huang
Title: *Methods For Making Simvastatin and Intermediates*
Docket: D2050-2N

Dear Mark,

Recently I sent all the inventors for the above application a Declaration to sign & return to me. I have heard back from everyone except Zilin Huang. There's been two attempts to reach him via regular postal mail, a phone call to his work number that states he is no longer employed there, & a home number which has been disconnected. Would you happen to have any recent contact info. for your co-inventor, Zilin Huang? If so, please let me know via e-mail: lsabido@diversa.com

Any assistance would very much be appreciated! Thank you for your time and cooperation. Hope you're having a good day!

Sincerely,

Linda Sabido
IP Assistant
Diversa Corporation
P.O. Box 910550
San Diego, CA 92191-0550

EXHIBIT F
(PAGE 2 OF 5)



D I V E R S A

April 26, 2007

Michael Levin
7565 Tupelo Cove
San Diego, CA 92126

RE: Contact Info. For Zilin Huang
Title: *Methods For Making Simvastatin and Intermediates*
Docket: D2050-2N

Dear Michael,

Recently I sent all the inventors for the above application a Declaration to sign & return to me. I have heard back from everyone except Zilin Huang. There's been two attempts to reach him via regular postal mail, a phone call to his work number that states he is no longer employed there, & a home number which has been disconnected. Would you happen to have any recent contact info. for your co-inventor, Zilin Huang? If so, please let me know via e-mail: lsabido@diversa.com

Any assistance would very much be appreciated! Thank you for your time and cooperation. Hope you're having a good day!

Sincerely,

Linda Sabido

Linda Sabido
IP Assistant
Diversa Corporation
P.O. Box 910550
San Diego, CA 92191-0550

EXHIBIT F
(PAGE 3 OF 5)



D I V E R S A

April 26, 2007

Jennifer Chaplin
12537 El Camino Real #C
San Diego, CA 92130

RE: Contact Info. For Zilin Huang
Title: *Methods For Making Simvastatin and Intermediates*
Docket: D2050-2N

Dear Jennifer,

Recently I sent all the inventors for the above application a Declaration to sign & return to me. I have heard back from everyone except Zilin Huang. There's been two attempts to reach him via regular postal mail, a phone call to his work number that states he is no longer employed there, & a home number which has been disconnected. Would you happen to have any recent contact info. for your co-inventor, Zilin Huang? If so, please let me know via e-mail: lsabido@diversa.com

Any assistance would very much be appreciated! Thank you for your time and cooperation. Hope you're having a good day!

Sincerely,

Linda Sabido

Linda Sabido
IP Assistant
Diversa Corporation
P.O. Box 910550
San Diego, CA 92191-0550

EXHIBIT F
(PAGE 4 OF 5)



DIVERSA

April 26, 2007

William Greenberg
3709 Ruelle de Ville
San Diego, CA 92130

RE: Contact Info. For Zilin Huang
Title: *Methods For Making Simvastatin and Intermediates*
Docket: D2050-2N

Dear William,

Recently I sent all the inventors for the above application a Declaration to sign & return to me. I have heard back from everyone except Zilin Huang. There's been two attempts to reach him via regular postal mail, a phone call to his work number that states he is no longer employed there, & a home number which has been disconnected. Would you happen to have any recent contact info. for your co-inventor, Zilin Huang? If so, please let me know via e-mail: lsabido@diversa.com

Any assistance would very much be appreciated! Thank you for your time and cooperation. Hope you're having a good day!

Sincerely,

Linda Sabido

Linda Sabido
IP Assistant
Diversa Corporation
P.O. Box 910550
San Diego, CA 92191-0550

EXHIBIT F
(PAGE 5 OF 5)

From Please print and print hard.
Date **4/26/07** **Sender's FedEx Account Number**
Sender's Name **LINDA SABIDO** **Phone** ()
Company **DIVERSA CORPORATION**
Address **4955 DIRECTORS PLACE**
City **SAN DIEGO** **State** **CA** **ZIP** **92121**
Your Internal Billing Reference **OPTIONAL**
To
Recipient's Name **ZILIN HUANG** **Phone** ()
Company
Recipient's Address **13750 NE 12th STREET, #I-201**
Address
City **BELLEVUE** **State** **WA** **ZIP** **98005**

4a Express Package Service

☐ **FedEx Priority Overnight**
 Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

☐ **FedEx Standard Overnight**
 Next business afternoon.* Saturday Delivery NOT available.

☐ **FedEx First Overnight**
 Earliest next business morning delivery to select locations.* Saturday Delivery NOT available.

☒ **FedEx 2Day**
 Second business day.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

☐ **FedEx Express Saver**
 Third business day.* Saturday Delivery NOT available.

* To meet locations.

4b Express Freight Service

☐ **FedEx 1Day Freight**
 Next business day.** Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

☐ **FedEx 2Day Freight**
 Second business day.** Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

☐ **FedEx 3Day Freight**
 Third business day.** Saturday Delivery NOT available.

** To meet locations.

5 Packaging

☒ **FedEx Envelope*** ☐ **FedEx Pak*** ☐ **FedEx Box** ☐ **FedEx Tube** ☐ **Other**

* Declared value limit \$500.

6 Special Handling

☐ **SATURDAY Delivery NOT Available for**
 FedEx Standard Overnight, FedEx First Overnight, FedEx Express Saver, or FedEx 3Day Freight.

☐ **HOLD Weekday at FedEx Location**
 NOT Available for FedEx First Overnight.

☐ **HOLD Saturday at FedEx Location**
 Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

Does this shipment contain dangerous goods?
☒ **No** ☐ **Yes** ☐ **Yes**
 One box must be checked. As per attached Shipper's Declaration. Shipper's Declaration not required.

☐ **Dry Ice**
 Dry Ice, 8, UN 1845 x kg

☐ **Cargo Aircraft Only**

Dangerous goods (including dry ice) cannot be shipped in FedEx packaging.

7 Payment

Bill to: Enter FedEx Acct. No. or Credit Card No. below.
☒ **Sender** ☐ **Recipient** ☐ **Third Party** ☐ **Credit Card** ☐ **Cash/Check**

FedEx Acct. No. Credit Card No.

Total Packages **Total Weight** **Total Declared Value†**
 \$ **.00**

†Our liability is limited to \$100 unless you declare a higher value. See back for details. By using this Airbill you agree to the service conditions on the back of this Airbill and in the current FedEx Service Guide, including terms that limit our liability.

8 NEW Residential Delivery Signature Options

☐ **No Signature Required**
 Package may be left without obtaining a signature for delivery.

☒ **Direct Signature**
 Anyone at recipient's address may sign for delivery. Fee applies.

☐ **Indirect Signature**
 If no one is available at recipient's address, anyone at a neighboring address may sign for delivery. Fee applies.

520

Rev. Date 8/05-Part #158261-©1994-2005 FedEx-PRINTED IN U.S.A. SRY



DIVERSA

April 25, 2007

Zilin Huang
13750 NE 12th Street, #I-201
Bellevue, WA 98005

Re: Declaration for U.S. Application 10/576,122
"Methods for Making Simvastatin and Intermediates"
Filed October 20, 2004
Diversa Docket No. D2050-2N

Dear Zilin,

We filed an international patent application on certain simvastatin methods, naming you as one of the inventors. A copy of the international cover page is enclosed for your reference.

This application is now under examination in the United States, and we will need your signature on a Declaration to affirm that you are an inventor. Please let me know if you would also like a copy of the specification for your reference.

Please sign and date the enclosed Declaration and return it to Diversa's IP department within the next week. If your home address on the Declaration is incorrect, please correct it and initial the correction. While we would prefer the original signed document, if necessary you may fax the signed version to 858-526-5614.

If you have any questions, please feel free to call me at 858-526-0345 or email me at lsabido@diversa.com. Thanks again for your help.

Sincerely yours,

Linda Sabido

Linda Sabido
IP Assistant
IP Department
Diversa Corporation

EXHIBIT G
(PAGE 2 OF 2)



D I V E R S A

April 25, 2007

Zilin Huang
13750 NE 12th Street, #I-201
Bellevue, WA 98005

Re: Declaration for U.S. Application 10/576,122
"Methods for Making Simvastatin and Intermediates"
Filed October 20, 2004
Diversa Docket No. D2050-2N

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If you have any questions, please feel free to call me at 858-526-0345 or email me at lsabido@diversa.com. Thanks again for your help.

Sincerely yours,

Linda Sabido

Linda Sabido
IP Assistant
IP Department
Diversa Corporation

EXHIBIT H
(PAGE 1 OF 3)

ROUTE
346D
FZ

27 Mailed

FedEx
384797-26APR07
TRK# 8560 8068 9404
FORM 0200

** 2DAY **

MON

Deliver By:
30APR07
A1

98005 -WA-US
SEA
SB BVUA

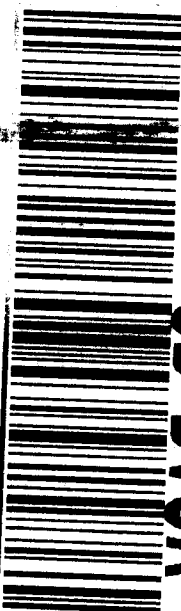


EXHIBIT H
(PAGE 2 OF 3)

FedEx. US Airbill

1 From
Date 4/26/07

Sender's FedEx
Account Number

Sender's Name
LINDA SAEBO

Phone

Company
DIVERSA CORPORATION

Address
4955 DIRECTORS PLACE

City SAN DIEGO State CA ZIP 92121

2 Your Internal Billing Reference

3 To

Recipient's Name
ZILIN HUANG

Phone

Company

Recipient's Address
13750 NE 12th STREET, #I-201

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Drop/Recovery/Status/From

Address
To request a package be held at a specific FedEx location, print FedEx address here.

City BELLEVUE State WA ZIP 98005

FedEx Urgent

Name

Company

Address

City, State, Zip

10 Direct Signature
Required
If no one is available at
recipient's address, someone
must sign for delivery.
Pay applicable.

5201

8 NEW Residential Delivery Signature Options
If you require a signature, check Direct or Indirect.

7 Payment Bill to:
1 Sender 2 Recipient 3 Third Party 4 Credit Card 5 Cash/Check

6 Special Handling
Includes FedEx address in Section 1.

5 Packaging
FedEx 1 Day Freight
FedEx 2 Day Freight
FedEx 3 Day Freight
FedEx 4 Day Freight
FedEx 5 Day Freight
FedEx International Priority
FedEx International Economy
FedEx Home Delivery
FedEx Mail Boxes Etc.
FedEx Smart Post
FedEx SurePost
FedEx Signature
FedEx Signature Required
FedEx Signature Required (Not for Signature)

4 Express Freight Service
FedEx 1 Day Freight
FedEx 2 Day Freight
FedEx 3 Day Freight
FedEx 4 Day Freight
FedEx 5 Day Freight
FedEx International Priority
FedEx International Economy
FedEx Home Delivery
FedEx Mail Boxes Etc.
FedEx Smart Post
FedEx SurePost
FedEx Signature
FedEx Signature Required
FedEx Signature Required (Not for Signature)

3 SATURDAY Delivery
FedEx Standard Overnight
FedEx First Overnight, FedEx Express
FedEx 2 Day Freight
FedEx 3 Day Freight
FedEx 4 Day Freight
FedEx 5 Day Freight
FedEx International Priority
FedEx International Economy
FedEx Home Delivery
FedEx Mail Boxes Etc.
FedEx Smart Post
FedEx SurePost
FedEx Signature
FedEx Signature Required
FedEx Signature Required (Not for Signature)

2 Your Internal Billing Reference

1 From
Date 4/26/07

Sender's FedEx
Account Number

Sender's Name
LINDA SAEBO

Company
DIVERSA CORPORATION

Address
4955 DIRECTORS PLACE

City SAN DIEGO State CA ZIP 92121

2 Your Internal Billing Reference

3 To

Recipient's Name
ZILIN HUANG

Phone

Company

Recipient's Address
13750 NE 12th STREET, #I-201

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Drop/Recovery/Status/From

Address
To request a package be held at a specific FedEx location, print FedEx address here.

City BELLEVUE State WA ZIP 98005

FedEx Urgent

Name
Company
Address
City, State, Zip

fedex.com 1.800.GoFedEx 1.800.463.3339

© 2005 FedEx 155476/155475 REV 9/05 RT

Tracking number 856080689404 **Service type** FedEx 2Day Envelope
Ship date Apr 26, 2007
Status Delivery exception

Date/Time	Activity	Location	Details
May 16, 2007 3:06 PM	Package returned to shipper	ISSAQUAH, WA	Return tracking number: 716819783596
May 7, 2007 12:21 PM	At local FedEx facility	ISSAQUAH, WA	
May 4, 2007 10:39 AM	At local FedEx facility	ISSAQUAH, WA	
May 2, 2007 12:08 PM	At local FedEx facility	ISSAQUAH, WA	
May 1, 2007 9:07 AM	At local FedEx facility	ISSAQUAH, WA	
8:56 AM	Delivery exception	ISSAQUAH, WA	Incorrect address
8:18 AM	Delivery exception	ISSAQUAH, WA	Incorrect address
Apr 30, 2007 5:21 PM	At local FedEx facility	ISSAQUAH, WA	
1:37 PM	Delivery exception	ISSAQUAH, WA	Incorrect address
8:07 AM	On FedEx vehicle for delivery	ISSAQUAH, WA	
Apr 28, 2007 7:06 AM	At local FedEx facility	ISSAQUAH, WA	
7:32 AM	At local FedEx facility	ISSAQUAH, WA	
7:32 AM	At local FedEx facility	ISSAQUAH, WA	Package not due for delivery
Apr 27, 2007 6:18 PM	At dest sort facility	SEATTLE, WA	
4:10 PM	Departed FedEx location	MEMPHIS, TN	
11:59 AM	Arrived at FedEx location	MEMPHIS, TN	
6:21 AM	Departed FedEx location	LOS ANGELES, CA	
Apr 26, 2007 6:48 PM	Left origin	SAN DIEGO, CA	
3:07 PM	Picked up	SAN DIEGO, CA	

E-mail results

Track more shipments

Subscribe to tracking updates (optional)

Your Name:

Your E-mail Address:

E-mail address

Language

Exception updates

Delivery updates

English

☐

English

☐

English

☐

English

☐Select format: ☒ HTML ☐ Text ☐ Wireless

Add personal message:

Not available for Wireless or non-English characters.

EXHIBIT H
(PAGE 3 OF 3)

By selecting this check box and the Submit button, I agree to these Terms and